Beforethe FederalCommunicationsCommission Washington,D.C.20554

IntheMatterof)	
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NoticeofInquiryonBroadband)	GNDocketNo.09-47
DeploymentandAdoptiononTribalLands)	09-51
NBPPublicNotice#5)	09-137
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Comments of Frontier Communications

ChristineM.Burke NationalMgr.—FundingPrograms

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Date:December9,2009

Beforethe FederalCommunicationsCommission Washington,D.C.20554

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Comments of Frontier Communications

FrontierCommunications("Frontier") ¹herebysubmitsitsreplycommentsonthe abovecaptionedmatterpursuanttotheFederalCommunicationsCommission'srequest forcommentsintheSeptember23,2009PublicNotice.

EXECUTIVESUMMARY

Frontiersubmitsthesereplycommentsinresponsetocommentsfiledby

SacredWindEnterprises,Inc.(SacredWind)intheabove-referenceddocket.Frontier

servestheNavajoNationintheStatesofArizona,NewMexicoandUtah.Whilewe

agreethatbroadbandavailabilityinthoseareasisnotashighasotherareasofthe

country,wedonotagreewiththesolutionproposedunderthe" SecondEssentialTool"

notedinSacredWind'sresponse ².Transferringownershipfromincumbentcarriersto

tribalcarriersdoesn'tmakebroadbandexpansionmorefeasible.

1. ImpedimentstoBroadbandAdoptionandDeploymentonTribalLands

Frontierisamid-sizedholdingcompanywithincumbentlocalexchangecarrier(ILEC)operationsin24 states.

²SeeCommentsofSacredWindEnterprises,Inc.,GNDocketNos.09-47,09-51,09-137,at4

The cost of providing telecommunications and broad bands ervices in the remote areas of the Navajo Nationare significant. The terrain and distance between population centers greatly increase the costs of service regardless of whether the carrier is an "out of state in cumbent" or a local provider. Any carrier must assess the feasibility of their capital expenditures and make those decisions based upon a reasonable return on investment.

AsnotedinSacredWind'scomments,theRightofWay(ROW)processinthe NavajoNationisburdensomeandtimeconsuming.Italsoentailsanassessmentfee fromtheResourceCommitteeoftheNationwhichisveryoftenprohibitiveinamount andisnotsetbaseduponanyobjectivemeasure.

TheRightofWay(ROW)processencounteredwithconstructionintribal areasrequiresnumerousadditionalstepsascomparedtonon-Triballands. These additionalstepsinclude: archaeological studies prepared by an authorized archaeologist, an environmental assessment reports ubmitted to Tribal Fish & Wildlife Dept. and U.S. Bureau of Indian Affairs, Landuser's Consent Survey, Rightof Way maps, and a Permitto Encroach. After the Rightof Way application is approved by the tribe, it must be approved by several other offices; Land Administration, Fish & Wildlife Dept., Historic Preservation Office, Tribal Environmental Protection Administration, Division of Natural Resources, Department of Justice, Office of the President, Legislative Counsel, Resources Committee and again to the Office of the President to issue Tribal consent. Finally, the ROW will be approved by the Bureau of Indian Affairs. This is along and complex process which significantly adds to the lead time for broadband or telecommunications expansion of any kind intribal areas. Attachment A

denotes the ROW process on the Navajo Nation. Another significant barrier in this process is the assessment levied by the Resource Committee of the Nation. This fee can be in excess of \$100,000 and is assessed on an arbitrary and capricious basis. The fee is often disproportion at eto the value of the ROW obtained. As treamlined ROW process and an objective basis for assessment would encourage more telecom expansion in native lands.

SacredWindproposestosolvethebroadbandavailabil

2. The Solution is Not "Localizing" all Existing Carrie rsin Tribal Lands

ityissueby"localizing"

theexisting"outofstatecarriers"andtransferringtheirpropertytolocaltribalcarriers. TheynotesuccessesinArizonaandNewMexicowithtransferringpropertytotribally orientedcarrierswithoutcitingthespecificsofthosesuccesses. Theycontendthat usingFederalfundingtoassisttribalcompaniestopurchaseassetsfromexisting carriersisabetteruseoffundsthantoofferFederalfundingtotheexistingcarrierto assistintheexpansionofbroadbandfacilities. If the newcompany is Federally-funded for the expansion of broadband where the previous provider was not, it only stands to reason that more expansion can be accomplished by the new provider. They note that for the set ribally oriented companies, RUS loans and grants are essential—"Without those, tribally oriented companies could not succeed".

4 This invalidates the concept that transferring the ownership of tribal telecomassets alone would have any impact on broadband deployment and adoption. Any available funding for broadbands hould be made available to all carriers on a non-discriminatory basis.

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³SeeCommentsofSacredWindEnterprises,Inc.,GNDocketNos.09-47,09-51,09-137,at4

⁴Id,at3

As noted in the previous section, the assessment feech arged for ROW in the Navajo Nationis an arbitrary amount that can vary based upon who is requesting the ROW. Therefore, tribally oriented companies could be charged lower fees than a non-tribal entity. This gives a discriminatory advantage to one company over another.

CONCLUSION

BroadbandexpansioninTribalareasismorecostlythaninnon-Tribalareasdue totheremotenature,theROWprocess,andinsomecases,geographyandterrain.

Ownershipbyatriballyorientedentitydoesnotautomaticallyliftanyofthese impediments.Thisincreasedcostexistsforallcarriersregardlessofownership.

Anobjective and streamlined ROW process would significantly improve this process and encourage more broad band deployment. Any Federal funding for the expansion of broad bands hould be made available to all carriers on a non-discriminatory basis.

RespectfullySubmitted,

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Date:December9,2009

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CERTIFICATEOFSERVICE

I, KennethF.Mason,docertifythatonDecember9,2009,theaforementioned *CommentsofFrontierCommunications* were electronically filed with the Federal Communications Commission through its Electronic Comment Filing System and were electronically mailed to the following:

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By:______KennethF.Mason

Frontier Communications December 9, 2009 Attachment A

N.C.C. Right of Way Flow Chart

Archaeological Report Prepared and Finalized by Authorized Archaeologist

Archaeological Report Filed with Navajo Nation Historic Preservation Department for Review and Approval

Archaeological Report Filed with Appropriate State Historic Preservation office (NM, AZ, Utah) for Review and Approval

Archaeological Clearance Form Submitted to B.I.A. Area Director for Final Approval and Signature

Environmental Assessment Submitted to Navajo Fish & Wildlife Department for Review and Approval

Environmental Assessment Submitted to B.I.A. Environmental Quality Office for Issuance of F.O.N.S.I. Project Request (Includes Detailed Information)

Preliminary Route Established and Flagged by NCC. District Offices

Bids Requested to Conduct Archaeological and Threatened/Endangered Species Surveys

Final Project Route Surveyed by Licensed Surveyor, Registered Engineer (P.E.)

Landusers Consent Survey by the Navajo Tribe and/or NCC, Depending on Land Status

Right-of-Way Map and Legal Description Finalized by Registered Engineer P.E.

Archseological Report and Biological
Assessment Finalized

Right-of-Way Map and Legal Description Filed with Appropria c B.I.A. Agency for Approval

Request Permit to Encroach on Existing R.O.W. Easements (If Applicable)

Environmental Assessment Prepared by NCC as Mandated by the National Environmental Protection Agency (NEPA)

Application for R.O.W. Filed with Nilvajo Tribe and Appropriate B.I.A. Agency Real Property Management

Review R.O.W. Application and Tribal Consent by B.I.A. Agency Real Property Management

Grant of Easement Issued by Appropriate B.I.A. Agency Superintendent

Notice to Proceed with Construction Issued by NCC Environment and Public Aifairs Division

Affidavit of Completion Submitted by NCC to Appropriate B.I.A. Agency Real Property Management

R.O.W. Application Filed with Navajo Tribe's Project Review Section for Review/Approval (Surname Process)

Division of Natural Resources (SAS Number is Assigned)

Land Administration

Navajo Fish and Wildlife Department

Historic Preservation Office

Navajo Environmental Protection
Administration

Division of Natural Resources

Department of Justice

Office of the President

Legislative Counsel

Resources Committee

Office of the President (Issues Tribal Consent)